

DANIEL G. BOGDEN
United States Attorney
PAUL S. PADDA
Assistant United States Attorney
333 Las Vegas Blvd. South, Rm. 5000
Las Vegas, Nevada 89101
Tele: (702) 388-6336
Fax: (702) 388-6787

Attorneys for the Federal Defendant

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LAURICE McCURDY,)	
)	
Plaintiff,)	Civil Action No. 2:08-cv-1742-PMP-(PAL)
)	
v.)	
)	
LERoy KIRKEGARD, <i>et. al.</i> ,)	
)	
Defendants.)	

**FEDERAL DEFENDANT'S SECOND MOTION FOR ENLARGEMENT
OF TIME TO RESPOND TO PLAINTIFF'S AMENDED
COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF**

(Second Request)

Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure and Rule 6-1 of this Court's Local Rules, Federal Defendant Aaron Fisher, Deputy United States Marshal, respectfully requests that the Court provide Federal Defendant with an extension of time, to and until July 21, 2010, within which to file a response¹ to Plaintiff's Amended Complaint and motion for miscellaneous relief that was filed on June 18, 2010 (Pacer document 50). Had Plaintiff effected proper service, as required by Federal Rule of Civil Procedure 4(i), Federal Defendant's response to Plaintiff's Amended Complaint

¹ Federal Defendant anticipates responding with, among other arguments, a motion to dismiss for failure to state a claim upon which relief can be granted.

would be due on June 29, 2010. However, because Plaintiff has failed to properly comply with service of process requirements, Federal Defendant is not required to respond to Plaintiff's pleadings. Nonetheless, without waiving any arguments that may be raised by Federal Defendant under Federal Rule of Civil Procedure 4, Federal Defendant respectfully requests that the Court permit him to file a response to Plaintiff's pleadings on or before July 21, 2010. This is Federal Defendant's second request for an extension of time, having previously requested until July 14, 2010 to file a response. In support of this request, Federal Defendant relies upon the memorandum of points and authorities set forth below.

MEMORANDUM OF POINTS AND AUTHORITIES

Federal Rule of Civil Procedure 6(b)(1) provides: "When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order" In this case, Federal Defendant's request for additional time is warranted for the reasons set forth below.

Undersigned counsel, with the able assistance of a summer law clerk, has completed a first draft of Federal Defendant's response to Plaintiff's Amended Complaint and motion for miscellaneous relief. However, additional time is needed to properly review the draft and receive appropriate feedback from agency counsel. Agency counsel is expected to be out of the office this Thursday and Friday. Accordingly, an additional week, or until July 21, 2010, will provide ample time to accomplish the foregoing, that is, finalize the draft and ensure proper agency review prior to its being filed with the Court.

Conclusion

In light of the foregoing, Federal Defendant respectfully requests that the Court allow Defendant until July 21, 2010 to respond to the Amended Complaint and the motion for miscellaneous relief.

Respectfully submitted,

DANIEL G. BOGDEN
United States Attorney

/s/ Paul S. Padda

PAUL S. PADDA
Assistant United States Attorney
333 Las Vegas Blvd. South, #5000
Las Vegas, Nevada 89101
Tele: (702) 388-6521
Fax: (702) 388-6787

Attorneys for the Federal Defendant

Dated: July 13, 2010

"IT IS SO ORDERED:

Without waiving any service of process arguments that may exist, Federal Defendant shall have until July 21, 2010 within which time to respond to the Amended Complaint and the motion for miscellaneous relief that was filed by Plaintiff on June 18, 2010.


UNITED STATES DISTRICT JUDGE

Dated: July 13, 2010

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document entitled "FEDERAL DEFENDANT'S SECOND MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S AMENDED COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF" was served by United States mail on July 13, 2010 (first-class, postage prepaid) upon the following individual:

Laurice McCurdy
USP Victorville
P.O. Box 5300
Adelanto, California 92301

/s/ Paul S. Padda

Paul S. Padda
Assistant United States Attorney